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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Luis F Rodriguez,

10 Plaintiff,

11 v.

12 ACCC Insurance Company, et al.,

13 Defendants.
14

No. CV-16-00998-PHX-ROS

ORDER

15 Plaintiff has requested entry of a Rule 54(b) judgment regarding attorneys' fees and
16 costs. (Doc. 113). Pursuant to Federal Rule of Civil Procedure 58(a), a separate judgment
17 "is not required for an order disposing of a motion . . . for attorney's fees under Rule 54."
18 Thus, in most cases, the Court is not required to enter a separate judgment when awarding
19 attorneys' fees. Instead, any post-judgment order awarding attorneys' fees is appealable
20 itself. *See California Med. Ass'n v. Shalala*, 207 F.3d 575, 576 (9th Cir. 2000) ("[A] party
21 may obtain relief from a judgment awarding attorney's fees [by appealing] the fee award
22 as it would any final judgment."). The present case might be different in that the Court
23 entered a Rule 54(b) judgment and the Order regarding attorneys' fees only addressed the
24 fees incurred in obtaining that judgment. Thus, there are still claims pending and perhaps
25 the order regarding attorneys' fees is not appealable. But Plaintiff has not cited any
26 authority establishing the Order regarding attorneys' fees is not appealable and there is no
27 obvious reason why that would be the case.

28 Regardless of the possible complication regarding the Rule 54(b) judgment,


1 Plaintiff's request for entry of a separate order presents an issue on which courts disagree.
2 One court has reasoned a separate judgment regarding attorneys' fees is unnecessary.
3 *United States v. Bus. Recovery Servs., LLC*, No. CV 11-0390-PHX-JAT, 2012 WL
4 3064253, at *2 (D. Ariz. July 26, 2012); *Pratt v. Office of Civil Rights*, No. CV-12-01821-
5 PHX-JAT, 2014 WL 1628570, at *4 (D. Ariz. Apr. 23, 2014). Another court has reasoned
6 the Federal Rules of Civil Procedure affirmatively prohibit entry of such a judgment.
7 *Mason Tenders Dist. Council of Greater New York v. Phase Constr. Servs., Inc.*, No. 14
8 CIV. 06016 (ER), 2018 WL 4682012, at *3 (S.D.N.Y. Sept. 28, 2018). But other courts
9 routinely enter such judgments. *See, e.g., Yufa v. TSI Inc.*, No. 09-CV-01315-KAW, 2016
10 WL 8929244, at *1 (N.D. Cal. Feb. 18, 2016).

11 In the present circumstances, the Court's intent in resolving the motion for
12 attorneys' fees now instead of waiting for resolution of the pending appeal was to allow
13 the parties to address the issue of attorneys' fees in connection with that appeal. Given
14 Rule 58, a separate judgment likely is not necessary. But the Court does not believe a
15 separate judgment is prohibited. That is, Rule 58(a) merely states "a separate document is
16 not required" but there is no indication that entry of a separate document is prohibited. To
17 avoid any possible confusion, the Court will enter a separate judgment. There is no just
18 reason for delay in entering this judgment.

19 Accordingly,

20 **IT IS ORDERED** the Motion for Entry of Judgment (Doc. 113) is **GRANTED**.
21 The Clerk of Court is directed to enter a judgment in favor Plaintiff and against Defendant
22 ACCC Insurance Company in the amount of \$368,109.32 (calculated as \$351,306.82 in
23 attorneys' fees, \$8,144.00 in legal research fees, and \$8,658.50 in non-taxable costs) with
24 post-judgment interest at the statutory rate.

25 Dated this 10th day of May, 2019.

26 
27 Honorable Roslyn O. Silver
28 Senior United States District Judge